

Howard Ross Cabot, Bar #006669  
Christopher S. Coleman, Bar #018287  
Jacob C. Robertson, Bar #024763  
PERKINS COIE BROWN & BAIN P.A.  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012-2788  
Telephone: 602.351.8000  
Facsimile: 602.648.7000  
HCabot@perkinscoie.com  
CColeman@perkinscoie.com  
JRobertson@perkinscoie.com

Attorneys for Defendants  
*The Vanguard Group, Inc. and*  
*Vanguard Marketing Corporation*

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Barbara Borchers, as Trustee and as attorney in  
fact and, and Betty D. Olson, as a Trustee of  
the Olson Living Trust,

Plaintiffs,

v.

The Vanguard Group, Inc. and Vanguard  
Marketing Corporation,

Defendants.

No. CV08-02138-PHX-ROS

**ANSWER OF VANGUARD  
MARKETING CORPORATION**

Defendant Vanguard Marketing Corporation responds to the allegations in  
Plaintiffs Barbara Borchers and Betty D. Olson's Complaint as follows:

1. Vanguard Marketing Corporation states that it lacks knowledge sufficient  
to form a belief as to the truth of the allegations of Paragraph 1, and on that basis denies  
those allegations.



1 reserves the right to assert additional affirmative defenses as discovery proceeds in this  
2 matter.

3 A. Plaintiffs' Complaint fails to state a claim upon which relief may be  
4 granted.

5 B. Plaintiffs lack standing to assert claims against Vanguard Marketing  
6 Corporation.

7 C. Plaintiffs' claims are barred, in whole or in part, by the applicable statute(s)  
8 of limitations.

9 D. Plaintiffs' claims against Vanguard Marketing Corporation are barred  
10 because Plaintiffs were not injured by reason of any action by Vanguard Marketing  
11 Corporation.

12 E. Plaintiffs' claims are barred in whole or in part by the doctrines of laches  
13 and unclean hands.

14 F. Plaintiffs' claims are barred in whole or in part under Arizona's Uniform  
15 Contribution Among Tortfeasors Act, A.R.S. § 12-2501, *et seq.* because any injury or  
16 damages allegedly sustained by Plaintiffs were caused by or contributed to by Plaintiffs  
17 themselves and/or other parties at fault and therefore should be apportioned to the  
18 Plaintiffs and such other parties at fault.

19 G. Plaintiffs' claims are barred in whole or in part because Plaintiffs' claimed  
20 injuries and damages were not legally or proximately caused by any acts or omissions of  
21 Vanguard Marketing Corporation and/or were caused, if at all, by the conduct of third  
22 parties including, without limitation, the prior, intervening or superseding conduct of  
23 such third parties.

24 H. Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to  
25 mitigate damages and/or failure to take necessary steps to avoid preventable  
26 consequences.

1 Dated: July 31, 2009

**PERKINS COIE BROWN & BAIN P.A.**

2  
3 By:s/ Jacob C. Robertson

Howard Ross Cabot, Bar #006669

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5 Jacob C. Robertson, Bar #024763

2901 North Central Avenue, Suite 2000

6 Phoenix, Arizona 85012-2788

7 Attorneys for Defendants

8 *The Vanguard Group, Inc. and*

9 *Vanguard Marketing Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2009, I electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant(s):

Philip J. Nathanson [*philipj@nathanlawfirm.com*]  
The Nathanson Law Firm  
8765 East Bell Road, Suite 110  
Scottsdale, Arizona 85260  
*Counsel for Plaintiffs*

s/ Marla Mercier